

CRIMINAL NO. 04-10292-NG

UNITED STATES OF AMERICA

V.

JOSE TORRES, a/k/a JESUS RODRIGUEZ,

Defendant.

DEFENDANT'S MOTION TO CORRECT SENTENCE UNDER RULE 35

The defendant in the above-entitled matter hereby respectfully moves this Honorable Court to correct his sentence pursuant to Rule 35 of the Federal Rules of Criminal Procedure.

As reason therefore, the defendant states that there was a clear error in the initial sentence announced on October 11, 2005 in that the thirty (30) month sentence was imposed on the assumption that the defendant would be able to participate in the BOP residential drug rehabilitation program. Subsequent investigation has revealed that because the program is oversubscribed, it is almost certain that the defendant would not be able to take advantage of it within the eighteen (18) months remaining on his sentence after credit for time already served. Accordingly, the defendant requests that this matter be scheduled for a re-sentencing hearing.

JOSE TORRES a/k/a JESUS RODRIGUEZ,
By his attorney,

S/
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Dated: October 17, 2005